

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

FTBK INVESTOR II LLC AS TRUSTEE FOR
NY BROOKLYN INVESTOR II TRUST 9,

Plaintiff

-against-

1084 NEW YORK D, LLC, 1084 NEW
YORK N, LLC, AARON WEXLER, NEW
YORK CITY ENVIRONMENTAL
CONTROL BOARD, CITY OF NEW YORK
DEPARTMENT OF HOUSING
PRESERVATION AND DEVELOPMENT,
and “JOHN DOE #1 through JOHN DOE #12”,
the last twelve names being fictitious and
unknown to Plaintiff, the persons or parties
intended being tenants, occupants, persons or
corporations, if any having or claiming an
interest upon the premises described in the
Complaint,

Defendants.

1084 NEW YORK N, LLC,

Third-Party Plaintiff

-against-

SOVEREIGN BANK, NIGHTINGALE
PROPERTIES, LLC, MADISON REALTY
CAPITAL ADVISORS, LLC, D&A
EQUITIES, LLC and DAVID DEUTSCH

Defendants.

NOTICE OF REMOVAL

1084 New York N, LLC (“**1084 New York**”), hereby gives notice of the removal (the
“**Notice of Removal**”) to this Court, pursuant to 28 U.S.C. § 1452(a) and Federal Rule 9027 of
the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), of the action captioned

FTBK Investor II LLC as Trustee for NY Brooklyn Investor II Trust 9 v. 1084 New York N, LLC, et al., Index N. 2264/12, from the Supreme Court of the State of New York, County of Kings (the “**State Court Action**”), where it is currently pending.

1. On January 3, 2013 (the “**Petition Date**”), Northside Development, LLC (“**Northside**”) and its wholly-owned affiliates 2607 Jerome N, LLC, 2334 Washington N, LLC and 1084 New York filed voluntary petitions for relief under chapter 11 of Title 11 of the United States Code (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the Southern District of New York (the “**Bankruptcy Court**”). 1084 New York’s bankruptcy case is presently pending before the Bankruptcy Court, Hon. Robert E. Gerber presiding, in the case styled *In re 2607 Jerome N, LLC, et al.*, Case No. 13-10034 (REG) (the “**Bankruptcy Case**”). On February 15, 2013, 1084 New York filed its *First Amended Plan of Liquidation of 1084 New York N, LLC*, dated as of February 15, 2013 (the “**1084 New York Plan**”), which was confirmed by Order of the Bankruptcy Court dated March 1, 2013. Pursuant to the 1084 New York Plan, the New York Property was sold on March 14, 2013. Accordingly, 1084 New York no longer holds title to the New York Property.

2. 1084 New York is a defendant in the State Court Action in which FTBK Investor II LLC (“**FTBK**”) sought to foreclose upon property located at 1076-1084 New York Avenue, Brooklyn, New York. 1084 New York is also a third-party plaintiff pursuant to a third-party complaint filed in the State Court Action against Sovereign Bank, Nightingale Properties, LLC, Madison Realty Capital Advisors, LLC, D&A Equities, LLC and David Deutsch, seeking damages for breach of fiduciary duty, breach of contract, tortious interference with contract and unjust enrichment. 1084 New York has also asserted third-party claims for indemnity and contribution.

3. The United States District Court for the Eastern District of New York has jurisdiction over the State Court Action pursuant to 28 U.S.C. § 1334 because the State Court Action arises in or is related to the Bankruptcy Case. *See* 28 U.S.C. § 1334(b). Moreover, upon removal to this Court, this proceeding should be referred to the Bankruptcy Court.

4. The State Court Action constitutes a core proceeding because resolution of the claims asserted in the State Court Action will directly affect the allowance or disallowance of claims asserted by D&A Equities, LLC and/or FTBK against 1084 New York, 1084 New York's counterclaims to same and 1084 New York's third-party claims against Sovereign Bank, Nightingale Properties, LLC, Madison Realty Capital Advisors, LLC, D&A Equities, LLC and David Deutsch, *see* 28 U.S.C. § 157(b)(2)(B), and 1084 New York consents to the entry of final orders or judgments by the Bankruptcy Court if it is determined that the Bankruptcy Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution. Moreover, in the event that the State Court Action is determined to be a non-core proceeding, 1084 New York consents to the entry of final orders or judgments by the Bankruptcy Court.

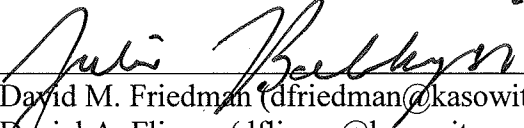
5. Removal of the State Court Action, therefore, is appropriate under 28 U.S.C. § 1452(a), which allows for the removal of claims and causes of action "to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action under section 1334 of" Title 28. Furthermore, removal is proper under Federal Rule of Bankruptcy Procedure 9027 and is timely brought pursuant thereto within 90 days of the Petition Date.

6. Copies of all process and pleadings filed in the State Court Action are to be filed contemporaneously with the filing of this Notice of Removal in accordance with 28 U.S.C. § 1446(a) and/or Federal Rule of Bankruptcy Procedure 9027(a)(1).

7. A copy of the Notice of Removal will be filed with the Supreme Court of the State of New York, County of Kings, and will be served on plaintiff's counsel pursuant to Bankruptcy Rule 9027(b), (c).

Dated: April 3 2013
New York, New York

KASOWITZ, BENSON, TORRES
& FRIEDMAN LLP

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